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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,212	04/19/2004	Judith Lynn Bryan	P06724US00	2896

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/827,212

Applicant(s)

BRYAN ET AL.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is the first office action for U.S. Application 10/827,212 for a Device for Supporting a Medical Apparatus filed by Judith Lynn Bryan et al. on April 19, 2004.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slot and complementary tab or hook that allows the base to slide must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-7, 9-14, 16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,711,872 to Lampke. Lampke discloses a device with a base (24) mountable to a bed and a clamp (70 and 74). There is a rod (48 and 50) extending between the base and the clamp and the base could slide in relation to the bed or pivot (depending on the degree to which the clamp on the base is tightened and what the base is secured to). The rod is rigid, length adjustable and pivotally connected to the base between a use and non-use position. The first end of the rod is connected to the base and the second end is connected to the clamp. The rod can be pivoted between operable and inoperable positions and is hooked to the base (36 hooks against the screw 30).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampke in view of U.S. Patent 6,817,046 B1 to Srour et al.. Lampke does not specifically disclose a member having a foot adapted to fit beneath a bed mattress, a leg extending upwardly from the foot and an arm extending outwardly from the leg and adapted to support and position the base over the mattress. Srour et al. discloses a crib that has feet (30), legs (22 and 26) extending upwardly from the feet, and an arm (28) extending outwardly from the leg (which would correspond to the part at 22 of Lampke). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized a crib such as the one taught by Srour et al., in conjunction with the device taught by Lampke, as a known type of crib.

Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lampke in view of U.S. Patent 5,645,335 to Brunner et al. Lampke does not disclose the base as being adhered to the bed. Brunner et al. discloses clamping and utilizing adhesive surfaces as functional equivalent means for securing (see col. 2, lines 41-43). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized an adhesive surface rather than a clamp, for the base taught

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by Lampke, as a simplified method of attachment because it is a functional equivalent as taught by Brunner et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,598,837 B1 to Howard et al.

U.S. Patent 3,929,309 to De Vore

U.S. Patent 5,775,654 to Price

U.S. Patent 4,524,475 to Valentino

U.S. Patent 4,735,388 to Marks

U.S. Patent 602,055 to Campbell

U.S. Patent 4,834,097 to Phillips et al.

U.S. Patent 6,039,293 to Minet

U.S. Patent 4,875,651 to Wergin et al.

The above patents disclose various types of support apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone

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number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Steven M. Marsh

December 2, 2004



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER